

REMARKS/ARGUMENTS

Claims 2, 3, 9 and 10 are objected to because of the language “CR” (claim 3) and “slight voltage fluctuation” (claims 2, 9 and 10). Claims 2, 3, 9 and 10 have been cancelled and rewritten in independent form as new claims 15,16, 17 and 18, respectively. The informalities have been corrected in the new claims.

Claims 1, 5, 6, 7, 8 and 12 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Kozlowski et al. (2003/0184307). The Examiner has indicated that claims 2-4 and 9-11 will be allowable if rewritten in independent form to include all of the limitations of the base claim and any intervening claims.

Claims 1, 6 and 8 have been amended to recite a diagnosing section for diagnosing a state of the battery, or the method step of diagnosing a state of the battery, by applying a transient result obtained from the measurement to a mathematical expression obtained by a system identification method or the measurement by the measuring section. This novel recitation is described, for example, on page 21, lines 9-13 of the specification, as well as in Figs. 7-10 of the drawings. Since Kozlowski fails to disclose or suggest this novel recitation, claims 1, 6 and 8, as currently amended, should be allowable.

New claims 13 and 14 depend from claim 1 as currently amended, and thus are believed to be allowable for the reasons set forth herein with respect to the allowability of claim 1.

With respect to claims 5, 7 and 12, these claims are resubmitted in their previously presented form for the reason that the teachings of Kozlowski fail to render obvious the novel recitations therein. Each of these claims calls for the load applying section applying a current to the battery when the battery is not supplied with fuel. It is noted that the term “fuel” refers to the

substance which provides the energy in a battery. In other words, “fuel” refers to the reactants in a battery. For example, in a hydrogen fuel cell, “fuel” would refer to the hydrogen and/or oxygen used by the fuel cell.

In this respect, it is apparent that Kozlowski fails to disclose or suggest the applying of a current to a battery when a battery is not supplied with fuel, as defined herein. The Examiner alleges that the recitation of applying a current to the battery when the battery is not supplied with fuel is inherent to the charging of batteries. The Examiner appears to be suggesting that “charge” is the fuel of a battery, and hence, that the act of charging a battery inherently applies a current to a battery that is empty of fuel (i.e., empty of charge). This contention by the Examiner is traversed for the reasons set forth herein.

Referring to the claims that the Examiner has indicated as being allowable, it is noted that claim 2 has been cancelled and rewritten in independent form as new claim 15; claim 3 has been cancelled and rewritten in independent new claim 16; claim 4 has been amended to depend from claim 16; claim 9 has been cancelled and rewritten in independent form as new claim 17; claim 10 has been cancelled and rewritten in independent form as new claim 18; and claim 11 has been amended to depend from new claim 18. All of these claims should now be allowable.

In view of the above amendments and remarks, it is submitted that all of the claims in the present application should now be allowable to Applicants, and formal allowance thereof is earnestly solicited.

Respectfully submitted,

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